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MEMO ENDORSED

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September 25, 2020

Via ECF

Honorable Paul E. Davison, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: In re Specialist and Other Vessel Owner Limitation Actions
Docket No: 16-cv-4643; Related Cases: 16-cv-5010 and 16-cv-7001

Dear Judge Davison:

We are attorneys for Tappan Zee Constructors, LLC (“TZC”) in the above-referenced actions. Regrettably, notwithstanding Your Honor’s unfavorable view of the number of docket entries expressed during Wednesday’s conference and our efforts to avoid cluttering the docket,¹ we are forced to write because Weeks Marine Inc.’s (“Weeks”) refuses to confirm it will produce photographs and internal and external measurements of the tug Specialist that Weeks’ expert naval architect Mr. Brian Thomas took during his two inspections (July and October 2018) of the Specialist prior to TZC’s expert naval architect’s (rebuttal) deposition scheduled for Tuesday, September 29, 2020.

Mr. Thomas testified at deposition this past Wednesday, September 22, 2020, and disclosed for the first time the existence of the photographs, physical measurements and his reliance on same for drafting his report. Since Mr. Thomas did not list these photographs and measurements as material collected, reviewed by him, or utilized for his simulation that is the crux of his report, TZC was unaware of the existence of the photographs and measurements. On the other hand, Mr. Evans, Weeks’ counsel was well aware of the existence of the materials having accompanied and assisted Mr. Thomas during the July and October 2018 inspections of the Specialist. Previously, Weeks acknowledged its obligation to turn over the data Mr. Thomas used to draft his report.² The photographs and measurements were not included in Weeks initial production of Mr. Thomas’s

¹ We attach hereto an email string containing TZC’s efforts to avoid having to write this letter, including a telephone call to Weeks’ counsel which went unreturned.

² We attach hereto Week’s acknowledgement that it was obligated to turn over materials Mr. Thomas used in drafting his report.

Honorable Paul E. Davison, U.S.M.J.
In re Specialist and Other Vessel Owner Limitation Actions
Docket No: 16-cv-4643; Related Cases: 16-cv-5010 and 16-cv-7001

Page 2 of 2

file. Accordingly, TZC respectfully requests Your Honor order Weeks to produce all of the photographs and measurements not later than noon on Monday, September 28, 2020.

We thank Your Honor for your continued attention to this matter.

Respectfully submitted,

Blank Rome LLP

/s/ William Bennett

William R. Bennett, III
Lauren B. Wilgus

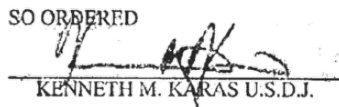
Giuliano McDonnell & Perrone, LLP

/s/ Joseph Perrone

Joseph J. Perrone

Weeks is to produce all
of the photographs and
measurements disclosed
by Mr. Thomas at the
September 22, 2020
deposition described in
this letter to TZC by
October 22, 2020.

Date: October 15, 2020
White Plains, NY

SO ORDERED

KENNETH M. KARAS U.S.D.J.

cc: All counsel of record via ECF

Ross, Nicola

From: Bennett III, William R.
Sent: Friday, September 25, 2020 2:57 PM
To: AJ Evans
Cc: Ron Betancourt; James E. Mercante; Jocelyn Cibinskas; Joseph J. Perrone; Kristin E. Poling; Wilgus, Lauren; Matthew M. Gorden; Michael Stern; Todd Kenyon
Subject: RE: Thomas

AJ,

Mr. Thomas' photos and measurements should have been produced many months ago. Why weren't they?

The photos Mr. Lewis referred to in his report were photos the parties exchanged during discovery. And, the photos you requested from Mr. Mackey were disclosed in his December 2019 report. The other two documents you requested from Mr. Mackey were not relied on to draft his report.

Bill

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From: AJ Evans <AEvans@bvgklaw.com>
Sent: Friday, September 25, 2020 2:22 PM
To: Bennett III, William R. <wbennett@BlankRome.com>
Cc: Ron Betancourt <RBetancourt@bvgklaw.com>; James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@rubinfiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Todd Kenyon <TKenyon@bvgklaw.com>
Subject: Re: Thomas

Bill,

We will be prepared to exchange documents requested at the recent depositions early next week. TZC's requests for Brian Thomas's photos were made just ~36 hours ago. We refer to our September 18, 2020 letter listing the items we requested on the record at Mackey's deposition. At Captain Lewis' deposition yesterday, we requested the photos vaguely referenced in his report at 2.18 and the notes to which Captain Lewis referred during and in preparation for the deposition. A letter will follow soon. Have a nice weekend.

AJ

Sent from mobile device.

On Sep 25, 2020, at 12:50 PM, Bennett III, William R. <wbennett@blankrome.com> wrote:

Ron/AJ,

I just called your office to avoid having to involve the Court in this matter and were advised you both were unavailable. Please get back to me with a response.

William R. Bennett III | BLANKROME

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From: Ron Betancourt <RBetancourt@bvgklaw.com>

Sent: Friday, September 25, 2020 12:22 PM

To: Bennett III, William R. <wbennett@BlankRome.com>; AJ Evans <AEvans@bvgklaw.com>

Cc: James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@rubinfiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Todd Kenyon <TKenyon@bvgklaw.com>

Subject: RE: Thomas

Bill,

On a related note, would you please provide us with the photos we requested at Captain Lewis' testimony as well as the documents requested at Captain Mackey's deposition. Thank you.

Best regards,

Ron Betancourt
Betancourt, Van Hemmen, Greco & Kenyon LLC
Phone: 732-530-4646 (N.J.) | 212-297-0050 (N.Y.)

From: Bennett III, William R. <wbennett@BlankRome.com>
Sent: Friday, September 25, 2020 12:20 PM
To: AJ Evans <AEvans@bvgklaw.com>
Cc: James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@rubinfiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Todd Kenyon <TKenyon@bvgklaw.com>
Subject: RE: Thomas

AJ,

We would like to avoid having to write to the Court today regarding our request that you confirm you will produce Mr. Thomas' photos today; especially in light of Judge Davison's comments during the last conference and the fact that the photos should have been produced months ago. Please confirm.

Regards,

William R. Bennett III | BLANKROME
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From: Bennett III, William R.
Sent: Friday, September 25, 2020 9:10 AM
To: AJ Evans <AEvans@bvgklaw.com>
Cc: James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@rubinfiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Todd Kenyon <TKenyon@bvgklaw.com>
Subject: RE: Thomas

AJ,

Please confirm you will provide Mr. Thomas' photos later today.

Regards,

Bill

William R. Bennett III | BLANKROME

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From: Bennett III, William R. <wbennett@BlankRome.com>

Sent: Thursday, September 24, 2020 9:01 PM

To: AJ Evans <AEvans@bvgklaw.com>

Cc: James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@rubinfiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Todd Kenyon <TKenyon@bvgklaw.com>

Subject: Thomas

AJ,

Please provide the photographs Mr. Thomas took during his visits to the Specialist by close of business tomorrow.

Regards,

Bill

William R. Bennett III | BLANKROME

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wbennett@blankrome.com

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On Sep 22, 2020, at 5:35 PM, AJ Evans <AEvans@bvgklaw.com> wrote:

Bill,

Here is the letter in Word. Please turn Track Changes on before making any edits.

Thanks,
AJ

From: Bennett III, William R. <wbennett@BlankRome.com>
Sent: Tuesday, September 22, 2020 5:34 PM
To: AJ Evans <AEvans@bvgklaw.com>; Alan R. Sacks <asacks@sacksassociates.com>; Daniel S. Weinberger <DWeinberger@gibbonslaw.com>; Guy V. Amoresano <GAmaresano@gibbonslaw.com>; Inga Reibarkh <ireibarkh@gibbonslaw.com>; James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@RubinFiorella.com>; Joe Staph <JStaph@bvgklaw.com>; Joseph Federici <jfederici@RubinFiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Josh Levy <JLevy@gibbonslaw.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Peter J. Torricollo <PTorricollo@gibbonslaw.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Samuel I. Portnoy <SPortnoy@gibbonslaw.com>; Seth MacArthur <Smacarthur@msllegal.com>; Todd Kenyon <TKenyon@bvgklaw.com>
Subject: RE: In re Specialist - Joint Letter to Davison

AJ,

Please send a word version so I can make some minor edits.

William R. Bennett III | BLANKROME

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From: AJ Evans <AEvans@bvgklaw.com>
Sent: Tuesday, September 22, 2020 4:32 PM
To: Alan R. Sacks <asacks@sacksassociates.com>; Daniel S. Weinberger <DWeinberger@gibbonslaw.com>; Guy V. Amoresano <GAmaresano@gibbonslaw.com>; Inga Reibarkh <ireibarkh@gibbonslaw.com>; James E. Mercante <jmercante@rubinfiorella.com>; Jocelyn Cibinskas <JCibinskas@RubinFiorella.com>; Joe Staph <JStaph@bvgklaw.com>; Joseph Federici <jfederici@RubinFiorella.com>; Joseph J. Perrone <jperrone@gmplawfirm.com>; Josh Levy <JLevy@gibbonslaw.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Peter J. Torricollo <PTorricollo@gibbonslaw.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Samuel I. Portnoy <SPortnoy@gibbonslaw.com>; Seth MacArthur

<Smacarthur@msllegal.com>; Todd Kenyon <TKenyon@bvgklaw.com>; Bennett III, William R.
<wbennett@BlankRome.com>

Subject: In re Specialist - Joint Letter to Davison

Good afternoon,

Here is the joint letter we plan to file later this evening concerning the few remaining items of discovery spilling over into October. Would you please let us have your comments, if any, by 8:00 p.m. this evening so that we can file it tonight.

Best regards,
AJ

Alton J. Evans, Jr.
Betancourt, Van Hemmen, Greco & Kenyon LLC
Phone: (732) 530-4646 (N.J.) | (914) 997-1100 (N.Y.)

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<Davison 40 ltr.doc>

Ross, Nicola

From: AJ Evans <AEvans@bvgklaw.com>
Sent: Friday, December 27, 2019 1:27 PM
To: Bennett III, William R.
Cc: Alan R. Sacks; Alan R. Sacks 2; Daniel S. Weinberger; Guy V. Amoresano; Inga Reibarkh; James E. Mercante; Joe Staph; Joseph Federici; Joseph J. Perone; Josh Levy; Kristin E. Poling; Wilgus, Lauren; Matthew M. Gorden; Michael Stern; Peter J. Torcicollo; Ron Betancourt; Samuel I. Portnoy; Seth MacArthur; Stanton Terranova; Todd Kenyon
Subject: RE: In re Specialist et al - Expert Disclosures
Attachments: RawData.xlsx

Dear Bill,

Here is the raw data output for the sinking simulations. Thomas also referred to the technical documentation integral to the GHS software. Although he did not rely on it, Thomas also has a copy of the NTSB report, which you have.

Regards,
AJ

From: Bennett III, William R.
Sent: Tuesday, December 24, 2019 12:11 PM
To: AJ Evans
Cc: Alan R. Sacks ; Alan R. Sacks 2 ; Daniel S. Weinberger ; Guy V. Amoresano ; Inga Reibarkh ; James E. Mercante ; Joe Staph ; Joseph Federici ; Joseph J. Perone ; Josh Levy ; Kristin E. Poling ; Wilgus, Lauren ; Matthew M. Gorden ; Michael Stern ; Peter J. Torcicollo ; Ron Betancourt ; Samuel I. Portnoy ; Seth MacArthur ; Stanton Terranova ; Todd Kenyon
Subject: Re: In re Specialist et al - Expert Disclosures

AJ,

Thank you for confirming you are working on gathering the requested data and will produce them at the end of the week.

Merry Christmas to you as well.

Kind regards,

Bill

William R. Bennett, III | Blank Rome LLP
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New York, NY 10020
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Email: WBennett@BlankRome.com

Sent from my iPhone

On Dec 24, 2019, at 11:19 AM, AJ Evans <AEvans@bvgklaw.com> wrote:

Dear Bill,

Thank you for your email. We have your email and are working on it. We expect to be able to respond further after Christmas by the end of the week. Have a Merry Christmas.

Regards,
AJ

Sent from mobile device.

On Dec 23, 2019, at 16:53, Bennett III, William R. <wbennett@blankrome.com> wrote:

Todd/AJ/Ron,

A response please.

William R. Bennett III | BLANKROME

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From: Bennett III, William R.

Sent: Friday, December 20, 2019 3:38 PM

To: 'AJ Evans' <AEvans@bvgklaw.com>; Alan R. Sacks <asacks@sacksassociates.com>; Alan R. Sacks 2 <gosacks@gmail.com>; Daniel S. Weinberger <DWeinberger@gibbonslaw.com>; Guy V. Amoresano <GAmoresano@gibbonslaw.com>; Inga Reibarkh <ireibarkh@gibbonslaw.com>; James E. Mercante <jmercante@rubinfiorella.com>; Joe Staph <JStaph@bvgklaw.com>; Joseph Federici <jfederici@RubinFiorella.com>; Joseph J. Perone <jperrone@gmplawfirm.com>; Josh Levy <JLevy@gibbonslaw.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Peter J. Torricollo <PTorricollo@gibbonslaw.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Samuel I. Portnoy <SPortnoy@gibbonslaw.com>; Seth MacArthur <Smacarthur@msllegal.com>; Stanton Terranova <sterranova@gmplawfirm.com>; Todd Kenyon <TKenyon@bvgklaw.com>

Subject: In re Specialist et al - Expert Disclosures

AJ,

Pursuant to FRCP RULE 26 (a)(2)(ii)&(iii), please provide the complete set of simulation models (5760) and all of the data relied on by Mr. Thomas.

Kind regards,

Bill

William R. Bennett III | BLANKROME

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From: AJ Evans <AEvans@bvgklaw.com>

Sent: Monday, December 16, 2019 6:08 PM

To: Alan R. Sacks <asacks@sacksassociates.com>; Alan R. Sacks 2 <gosacks@gmail.com>; Daniel S. Weinberger <DWeinberger@gibbonslaw.com>; Guy V. Amoresano <GAmoresano@gibbonslaw.com>; Inga Reibarkh <ireibarkh@gibbonslaw.com>; James E. Mercante <jmercante@rubinfiorella.com>; Joe Staph <JStaph@bvgklaw.com>; Joseph Federici <jfederici@RubinFiorella.com>; Joseph J. Perone <jperrone@gmplawfirm.com>; Josh Levy <JLevy@gibbonslaw.com>; Kristin E. Poling <kpoling@rubinfiorella.com>; Wilgus, Lauren <LWilgus@BlankRome.com>; Matthew M. Gorden <mgorden@gmplawfirm.com>; Michael Stern <mstern@rubinfiorella.com>; Peter J. Torcicollo <PTorcicollo@gibbonslaw.com>; Ron Betancourt <RBetancourt@bvgklaw.com>; Samuel I. Portnoy <SPortnoy@gibbonslaw.com>; Seth MacArthur <Smacarthur@msllegal.com>; Stanton Terranova <sterranova@gmplawfirm.com>; Todd Kenyon <TKenyon@bvgklaw.com>; Bennett III, William R. <wbennett@BlankRome.com>

Subject: In re Specialist et al - Expert Disclosures

Good afternoon,

Please see attached.

Best regards,
AJ

Alton J. Evans, Jr.
Betancourt, Van Hemmen, Greco & Kenyon LLC
Phone: (732) 530-4646 (N.J.) | (914) 997-1100 (N.Y.)

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